

REMARKS

In the present amendment, claims 1, 7, 29, 30 and 31 have been amended; claims 8, 9 and 28 have been canceled without prejudice or disclaimer; and no claims have been added. The amendments introduce no new matter as discussed further below, thus reconsideration of the application is respectfully requested.

Claim Amendments and New Claims

The claims have been amended to assist in clarifying the invention. All of the amendments are supported by the specification and the claims as originally filed.

In particular, claims 1 and 31 have been amended to recite the limitations of canceled claims 1 and 28. As such, the claims add no new matter.

Claims 7, 29 and 30 have been amended to clarify the structural limitations recited in the respective claims. As such, the claims add no new matter.

No new matter is introduced by the subject amendments and the entry thereof is respectfully requested. After amendment, claims 1-7, 10-12, 26-27 and 29-31 will remain pending and under consideration.

Rejections under 35 U.S.C. §102

Applicants respectfully traverse the rejection of claims 1, 3-4 and 27-30 under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 4,443,321 (hereinafter 'Compton').

To anticipate, a single reference must inherently or expressly teach each and every element of claimed invention (see, *In re Spada*, 15 USPQ2d 1655 (Fed Cir. 1990); *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); and MPEP § 2131).

The Office Action alleges Compton teaches each and every element of the apparatus as claimed. Without acquiescing to the reasoning presented in the Office Action, and to expedite prosecution of the instant application, Applicants have amended independent claim 1 to recite the

limitations of canceled claims 9 and 28. As such, the claim recites an apparatus in which the outer chamber is an autoclave, and the apparatus includes a turbulence creating means comprising a drive means to rotate the porous chamber within the outer chamber. Compton generally discloses an apparatus for use in supercritical solvent coal extraction. However, Applicants assert that Compton fails to disclose the apparatus as currently claimed since the reference fails to disclose an apparatus including a turbulence creating means comprising a drive means to rotate the porous chamber within the outer chamber as claimed (the limitation of canceled claim 9). As such, Compton fails to teach each and every element of the current claims. This point is acknowledged in the Office Action as claim 9 was not included in this rejection.

Applicants submit that Compton fails to anticipate the claimed invention as the reference fails to teach the each and every element of the claims. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Applicants respectfully traverse the rejection of claims 1-7, 11-12 and 27 under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 6,916,389 (hereinafter 'Pesiri').

The Office Action alleges Pesiri teaches each and every element of the apparatus as claimed. Without acquiescing to the reasoning presented in the Office Action, and to expedite prosecution of the instant application, Applicants have amended independent claim 1 to recite the limitations of canceled claims 9 and 28. As such, the claim recites an apparatus in which the outer chamber is an autoclave, and which includes a turbulence creating means comprising a drive means to rotate the porous chamber within the outer chamber. Pesiri generally discloses an apparatus used for mixing particles to produce particulates. However, Applicants assert that Pesiri fails to disclose the apparatus as currently claimed since the reference fails to disclose an apparatus in which the outer chamber is an autoclave and which includes a turbulence creating means comprising a drive means to rotate the porous chamber within the outer chamber as claimed (the limitations of canceled claims 28 and 9 respectively). As such, Pesiri fails to teach

each and every element of the current claims. This point is acknowledged in the Office Action as claims 9 and 28 were not included in this rejection.

Applicants submit that Pesiri fails to anticipate the claimed invention as the reference fails to teach the each and every element of the claims. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Rejections under 35 U.S.C. §102 and 35 U.S.C. §103

Applicants respectfully traverse the rejection of claims 1-7, 9, 11 and 26 under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 5,744,038 (hereinafter 'Cham'), or in the alternative under 35 U.S.C. §103(a) as allegedly obvious in view of Cham.

The Office Action alleges Cham teaches each and every element of the apparatus as claimed. Without acquiescing to the reasoning presented in the Office Action, and to expedite prosecution of the instant application, Applicants have amended independent claim 1 to recite the limitations of canceled claims 9 and 28. As such, the claim recites an apparatus in which the outer chamber is an autoclave, and which includes a turbulence creating means comprising a drive means to rotate the porous chamber within the outer chamber. Cham generally discloses a device used for separating cholesterol from blood plasma. However, Applicants assert that Cham fails to disclose the apparatus as currently claimed since the reference fails to disclose an apparatus in which the outer chamber is an autoclave (the limitation of canceled claim 28). As such, Cham fails to teach each and every element of the current claims. This point is acknowledged in the Office Action as claim 28 was not included in this rejection.

Applicants submit that Cham fails to anticipate the claimed invention as the reference fails to teach the each and every element of the claims. Additionally, as the reference does not teach all of the elements of the present claims, no *prima facie* case of obviousness has been established. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Rejections under 35 U.S.C. §103

Applicants respectfully traverse the rejection of claim 8 under 35 U.S.C. §103(a) as allegedly being obvious over Compton in view of U.S. Patent No. 6,531,056 (hereinafter Hammonds). Without acquiescing to the reasoning presented in the Office Action, claim 8 has been canceled rendering the rejection moot as to the claim. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Applicants respectfully traverse the rejection of claim 10 under 35 U.S.C. §103(a) as allegedly being obvious over Compton, and further in view of U.S. Patent No. 3,734,160 (hereinafter 'Osдор'), U.S. Patent No. 4,452,701 (hereinafter 'Garrett'), U.S. Patent No. 6,000,625 (hereinafter 'Cole') and U.S. Patent Application Publication No. 2003/0151176 (hereinafter 'Ohno').

The U.S. Supreme Court decision in *KSR International v. Teleflex Inc.* (82 USPQ 2d 1385), modified the standard for establishing a prima facie case of obviousness. Under the *KSR* rule, three basic criteria are considered. First, some suggestion or motivation to modify a reference or to combine the teachings of multiple references still has to be shown. Second, the combination has to suggest a reasonable expectation of success. Third, the prior art reference or combination has to teach or suggest all of the recited claim limitations. Factors such as the general state of the art and common sense may be considered when determining the feasibility of modifying and/or combining references.

The new Guidelines establishing standards for obviousness emphasize that Examiners "must provide a reasoned explanation as to why the invention as claimed would have been obvious," and are equally clear that "familiar lines of argument," e.g., a showing of unexpected results, a lack of reasonable expectation of success, and a teaching away from the claimed invention by the prior art, can still demonstrate the nonobviousness of a claimed invention. Applicants submit that the Examiner has not met the burden of establishing a *prime facie* case of obviousness for the reasons discussed below.

As discussed above, without acquiescing to the reasoning presented in the Office Action, and to expedite prosecution of the instant application, Applicants have amended independent claim 1 to recite the limitations of canceled claims 9 and 28. As such, the claim recites an apparatus in which the outer chamber is an autoclave, and the apparatus includes a turbulence creating means comprising a drive means to rotate the porous chamber within the outer chamber. As discussed above, Applicants assert that Compton fails to disclose the apparatus as currently claimed since the reference fails to disclose an apparatus including a turbulence creating means comprising a drive means to rotate the porous chamber within the outer chamber as claimed (the limitation of canceled claim 9). Osdor, Garrett, Cole and Ohno fail to remedy the deficient teachings of Compton, since the references also fail to teach an apparatus including a turbulence creating means comprising a drive means to rotate the porous chamber within the outer chamber as claimed. Osdor generally discloses a flash vaporization system. Garrett generally discloses a device for treatment of sewage. Cole generally discloses a device for irrigating crops. Ohno generally discloses an inline degassing apparatus for removing solid solution gases as well as nonmetallic inclusions from molten metal. However, all of the cited references are silent as to an apparatus including a turbulence creating means comprising a drive means to rotate the porous chamber within the outer chamber as claimed. As such, the references fail to teach all of the elements of the present claims. As the references do not teach all of the elements of the present claims, no *prima facie* case of obviousness has been established. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Applicants respectfully traverse the rejection of claim 10 under 35 U.S.C. §103(a) as allegedly being obvious in view of Cham, and further in view of Osdor, Garrett, Cole and Ohno.

As discussed above, without acquiescing to the reasoning presented in the Office Action, and to expedite prosecution of the instant application, Applicants have amended independent claim 1 to recite the limitations of canceled claims 9 and 28. As such, the claim recites an

apparatus in which the outer chamber is an autoclave, and which includes a turbulence creating means comprising a drive means to rotate the porous chamber within the outer chamber. As discussed above, Applicants assert that Cham fails to disclose the apparatus as currently claimed since the reference fails to disclose an apparatus in which the outer chamber is an autoclave (the limitation of canceled claim 28). The teachings of Osdor, Garrett, Cole and Ohno are discussed above. Applicant asserts that Osdor, Garrett, Cole and Ohno fail to remedy the deficient teachings of Cham, since the references also fail to teach an apparatus in which the outer chamber is an autoclave as claimed. As such, the references fail to teach all of the elements of the present claims. As the references do not teach all of the elements of the present claims, no *prima facie* case of obviousness has been established. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Applicants respectfully traverse the rejection of claim 31 under 35 U.S.C. §103(a) as allegedly being obvious in view of Pesiri.

Without acquiescing to the reasoning presented in the Office Action, and to expedite prosecution of the instant application, Applicants have amended independent claim 31 to recite the limitations of canceled claims 9 and 28. As such, the claim recites an apparatus in which the outer chamber is an autoclave, and which includes a turbulence creating means comprising a drive means to rotate the porous chamber within the outer chamber. As discussed above, Applicants assert that Pesiri fails to disclose the apparatus as currently claimed since the reference fails to disclose an apparatus in which the outer chamber is an autoclave and which includes a turbulence creating means comprising a drive means to rotate the porous chamber within the outer chamber as claimed (the limitations of canceled claims 28 and 9 respectively). As such, Pesiri fails to teach each and every element of the current claims. As the reference does not teach all of the elements of the present claims, no *prima facie* case of obviousness has been established. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Applicants respectfully traverse the rejection of claim 31 under 35 U.S.C. §103(a) as allegedly being obvious in view of Cham.

As discussed above, without acquiescing to the reasoning presented in the Office Action, and to expedite prosecution of the instant application, Applicants have amended independent claim 31 to recite the limitations of canceled claims 9 and 28. As such, the claim recites an apparatus in which the outer chamber is an autoclave, and which includes a turbulence creating means comprising a drive means to rotate the porous chamber within the outer chamber. As discussed above, Applicants assert that Cham fails to disclose the apparatus as currently claimed since the reference fails to disclose an apparatus in which the outer chamber is an autoclave (the limitation of canceled claim 28). As such, Cham fails to teach each and every element of the current claims. As the reference does not teach all of the elements of the present claims, no *prima facie* case of obviousness has been established. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

In re Application of:
Foster et al.
Application No.: 10/552,390
Filed: May 30, 2006
Page 12

PATENT
Atty Docket No.: MAP1130

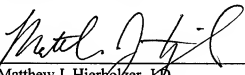
CONCLUSION

In view of the amendments and above remarks, it is submitted that the claims are in condition for allowance, and a notice to that effect is respectfully requested. The Examiner is invited to contact Applicants' undersigned representative if there are any questions relating to this application.

Please charge Deposit Account No. 07-1896 in the amount of \$960.00 to cover a Petition for Three Month Extension of Time (\$555.00) and a Request for Continued Examination (\$405.00), small entity. Applicants believe that no additional fee is deemed necessary with the filing of this paper. However, the Commissioner is authorized to charge any fees deemed necessary with the filing of this paper, or credit any overpayments, to Deposit Account No. 07-1896 referencing the above-identified docket number.

Respectfully submitted,

Date: October 22, 2010


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